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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/696,693	10/29/2003	Michael Shur	SETI-0007	5258

23550 7590 12/03/2004

HOFFMAN WARNICK & D'ALESSANDRO, LLC  
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ALBANY, NY 12207

EXAMINER
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ERDEM, FAZLI

ART UNIT	PAPER NUMBER
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2826

DATE MAILED: 12/03/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/696,693

Applicant(s)

SHUR ET AL.

Examiner

Fazli Erdem

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on <sup>12</sup> 23 September 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 15-20 is/are allowed.
- 6) ☒ Claim(s) 1-5, 7-9, 11, 13 and 14 is/are rejected.
- 7) ☒ Claim(s) 6, 10 and 12 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

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### DETAILED ACTION

Examiner withdraws the Non-Final action issued on 6/14/2004, which did not address all the 20 claims. Examiner issues this Non-Final action to address all the remaining 20 claims.

This Non-Final action is made responsive to the Applicant's response filed on 9/<sup>17</sup>~~23~~/2004

#### *Allowable Subject Matter*

1. Claims 15-20 allowed.

The following is an examiner's statement of reasons for allowance: Prior art failed to establish the required heterodimensional diode structure.

2. Claim 6, 10 and 12 objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: Prior art failed to establish the required periodic grating gate, the required transparent gate structure.

#### *Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1-5, 7-9, 11, 13 and 14 rejected under 35 U.S.C. 103(a) as being unpatentable over Nerses et al. (6,178,275) in view of Mahonty (2003/0016716) further in view of Yamada (5,468,972).

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Regarding Claims 1-5, 7-9, 11, 13 and 14, Nerses et al. disclose a method and apparatus for modulation of guided plasmons where in Figs. 1 and 4 a 2-dimensional gas structure 60 disposed on the AlGaAs semiconductor structure. In Claims 1, 4 and 6, Nerses et al. disclose a laser pulsing means to pulse the 2-dimensional gas. Nerses et al. fail to disclose the duration of such laser and the required adjustment of the frequency using the voltage applied to the semiconducting structure. However, Mahonty disclose a sonolaser where in paragraph 70 a ten picoseconds duration laser is disclosed. Furthermore, Yamada discloses vacuum device for controlling spatial position and path electron where in paragraph 6 it is disclosed that an electron gas is accelerated to be moved with high speed in the air-tight chamber by an electric field generated across the source and drain electrodes, wherein the motion of the electron gas is controlled by an external signal applied to the gate electrode.

It would have been obvious to one of having ordinary skill in the art at the time the invention was made to include the required laser duration and the required adjustment of the frequency in Nerses et al. as taught by Nahonty and Yamada in order to have a two dimensional gas structure on a semiconducting structure with higher performance.

### ***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fazli Erdem whose telephone number is (571) 272-1914. The examiner can normally be reached on M - F 8:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan Flynn can be reached on (571) 272-1914. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

FE  
September 16, 2004

NATHAN J. FLYNN  
SUPERVISORY PATENT EXAMINER  
TECHNOLOGY CENTER 2800